

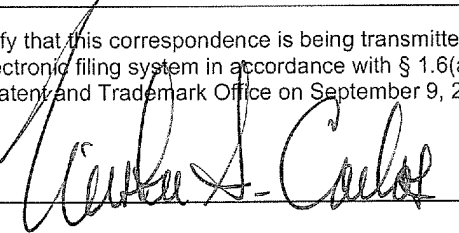
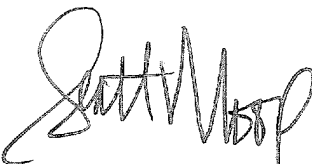
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		9563-35	
I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on September 9, 2009.  Signature _____ Typed or printed name <u>Kirsten S. Carlos</u>	Application Number	Filed	
	10/538,293	06/10/2005	
	First Named Inventor		
	Johannes Hakansson		
	Art Unit	Examiner	
	2622	Henn, Timothy J	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		D. Scott Moore	
		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. 42,011		919/854-1400	
Registration number		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.		September 9, 2009	
Registration number if acting under 37 CFR 1.34 _____		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE EXAMINING GROUP 2622**

Attorney Docket No. 9563-35

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Johannes Hakansson

Confirmation No.: 1566

Serial No.: 10/538,293

Group Art Unit: 2622

Filed: June 10, 2005

Examiner: Henn, Timothy J.

For: **CREATING EFFECTS FOR IMAGES**

September 9, 2009

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REASONS IN SUPPORT OF APPLICANT'S PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program, which have been extended indefinitely

No fee or extension of time is believed due for this request beyond those that may otherwise be provided for in documents accompanying this paper. However, if any fee or extension of time for this request is required, Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

Applicant hereby requests a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed June 9, 2009 (hereinafter "Final Action"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Applicant respectfully submits that the rejections of the currently pending claims are clearly erroneous because many of the recitations of the pending claims are not met by the cited references for at least the reasons discussed herein. In particular, the cited reference fails to disclose or suggest, at least, transferring an effects file from one device to another device where it is used for later application on more than one image, which are not associated with each other. In the interest of brevity and without waiving the right to argue additional

grounds should this Petition be denied, Applicant will only discuss the recitations of independent Claims 1, 8, 15, and 16.

Independent Claims 1, 8, 15, and 16 are Patentable

Independent Claims 1, 8, 15, and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent No. 7,038,716 to Klein et al. ("Klein") in view of U. S. Patent Publication No. 2003/0071903 to Nakami ("Nakami") and further in view of U. S. Patent Publication No. 2003/0063198 to Yokokawa ("Yokokawa"). (Final Action, page 2).

Independent Claim 1 recites:

generating an effect for application on digital images based on entries of a user;
storing the effect as an effects file in a defined standardised image editor independent effects format; and
transferring the effects file to another device, such that it is used for later application on more than one image, the multiple images not being associated with one another. (Emphasis added).

According to independent Claim 1 the effects file is transferred to another device where it is subsequently used on more than one image, which are not associated with one another.

Independent Claims 8, 15, and 16 include similar recitations.

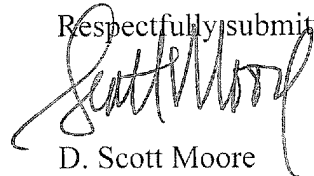
The Final Action acknowledges that Klein fails to disclose an image effects store, but alleges that Nakami provides the missing teachings. (Final Action, page 2). Nakami is directed to an image output system where a digital camera generates an image file that includes both image data and output control data (PIM), which are used in the printing process. (Nakami, paragraph 54; FIG. 1). The Final Action alleges that the output control data PIM corresponds to the effects file recited in the independent claim. (Final Action, pages 2 and 3). As explained in paragraph 79 of Nakami, however, the output control data used for processing/printing an image taken by a digital camera includes standard settings along with additional custom settings that can be set/modified by the photographer so that a specific image prints according to the photographer's particular taste. Nakami, therefore, teaches against using the output control data on a printer for more than one image as the other images may be associated with other photographers and/or the same photographer may wish

to process/print images differently based on the particular subject matter featured in the image.

The Final Action acknowledges that Nakami fails to disclose or suggest using the same effect for multiple images, but alleges that Yokokawa provides the missing teachings. (Final Action, page 3). The Final Action cites Yokokawa as disclosing the ability to use a camera to capture images on different days (Yokokawa, FIGS. 3A and 3B) and under different shooting conditions (Yokokawa, FIGS. 7A and 7B). The Final Action alleges that "it would be obvious to select a common effect to be applied to these images (Nakami, Figure 5)." (Final Action, page 3). As discussed above, however, Nakami does not suggest applying a common effect to multiple images that are not associated with one another. Nakami teaches against applying a common effect to multiple images when printing the images because the images may be associated with different photographers and/or the same photographer may wish to process/print images differently based on the particular subject matter featured in the image. Thus, Yokokawa fails to remedy the deficiencies in Klein's and Nakami's teachings as Yokokawa merely discloses the ability to acquire images that are not associated with one another. Applicant submits that the combination of Klein, Nakami, and Yokokawa fails to disclose or suggest, at least, transferring an effects file to another device, such that it is used for later application on more than one image, which are not associated with one another.

For at least the foregoing reasons, Applicant respectfully request that the present application be reviewed and that the rejection of independent Claims 1, 8, 15, and 16 be reversed by the appeal conference prior to the filing of an appeal brief.

Respectfully submitted,



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In re: Johannes Hakansson

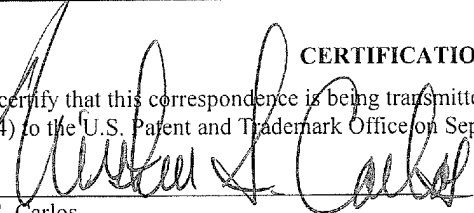
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CERTIFICATION OF TRANSMISSION

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Kirsten S. Carlos